

GLEN GOULD

IBLA 80-797

Decided February 10, 1981

Appeal from decision of the Arizona State Office, Bureau of Land Management, declaring the Glenda Sue Nos. 1 through 20 mining claims abandoned and void. A MC 6478 through A MC 6497.

Appeal dismissed.

1. Federal Land Policy and Management Act of 1976: Assessment Work--Mining Claims: Abandonment--Mining Claims: Assessment Work

Under 43 U.S.C. § 1744(a) (1976) and 43 CFR 3833.2-1(c) the owner of an unpatented mining claim located on Federal lands after Oct. 21, 1976, must, on or before Dec. 30 of each calendar year following the calendar year in which such claim was located, file in the proper BLM office evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim, or the claim must be presumed abandoned and void.

2. Appeals--Rules of Practice: Appeals: Dismissal--Rules of Practice: Appeals: Statement of Reasons

A statement of reasons in support of an appeal which does not point out affirmatively in what respect the decision appealed from is in error does not meet the requirements of the Department's rules of practice and may be dismissed.

APPEARANCES: Glen Gould, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Glen Gould, appellant, filed an appeal from the decision of the Arizona State Office, Bureau of Land Management (BLM), dated June 12, 1980, holding the Glenda Sue Nos. 1 through 20 mining claims abandoned and void because appellant failed to file evidence of annual assessment work or alternatively notices of intention to hold the claims as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and corresponding regulations 43 CFR 3833.2 and 43 CFR 3833.4(a). Appellant located the claims on March 1 and March 2, 1977, and submitted the location notices and other documents to BLM on April 29, 1977.

The record indicates that appellant did not file either evidence of assessment or notice of intention to hold the claim prior to December 31, 1978. Accordingly, BLM issued its decision declaring the claims abandoned and void.

On July 18, 1980, appellant filed a notice of appeal which stated simply that his records show that he mailed a copy of the assessment work November 12, 1979, and enclosed a copy of the affidavit of labor filed in the county office on December 8, 1979.

[1] The owner of an unpatented mining claim located after October 21, 1976, must prior to December 31, of each year following the calendar year in which the claim was located, file with BLM either evidence of assessment work performed during the previous assessment year or a notice of intention to hold the mining claim. 43 U.S.C. 1744(a) (1976); 43 CFR 3833.2-1(c).

Failure to file the required instruments is deemed conclusively to constitute an abandonment of the claim by the owner and must be declared void. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4(a).

[2] Appellant in his statement of reasons for appeal fails to demonstrate any error in the BLM decision. Indeed, his only allegation is that he mailed the required documentation on November 12, 1979, well after the required filing date of December 30, 1978. Since the statement of reasons fails to point out how the decision appealed from is in error it does not meet the requirements of the Department's rules of practice and the appeal may be and is dismissed. Duncan Miller, 41 IBLA 129 (1979).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Gail M. Frazier

Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

James L. Burski
Administrative Judge

